

EXECUTIVE OFFICER SUMMARY REPORT  
April 14, 2004

ITEM: 9

SUBJECT: A Resolution to the State Water Resources Control Board (State Board) demonstrating San Diego Regional Water Quality Control Boards (Regional Boards) support for the adoption of an Exception to the 2001 California Ocean Plan for the University of California, Scripps Institution of Oceanography (tentative Resolution No. R9-2004-0013) (*Sabine Knedlik*)

PURPOSE: Adoption of the tentative Resolution. The tentative Resolution is the appropriate way to inform the State Board that the Regional Board concurs with the approval of the Exception to the 2001 California Ocean Plan for the University of California, Scripps Institution of Oceanography (Scripps).

PUBLIC NOTICE: A notice of public hearing for the April 14, 2004 Regional Board meeting on this matter was issued on March 12, 2004 through the San Diego Union Tribune, serving as the 30-day official public notification for this action. Tentative drafts of the Resolution and a report for the Resolution were mailed on March 12, 2004 to the discharger and all known interested parties and agencies for review and comment. Copies of the tentative Resolution and the report have been made available for public review at the San Diego Regional Board office and web site.

DISCUSSION: The 2001 California Ocean Plan, a Water Quality Control Plan adopted by the State Board, establishes that waste shall not be discharged to Areas of Special Biological Significance (ASBS). For many years, Scripps Institution of Oceanography (Scripps) has been discharging wastewater into the *San Diego Marine Life Refuge ASBS* and is regulated under Order No. 99-83, NPDES Permit No. CA0107239.

*Section III.I.1* of the Ocean Plan states that the State Board may, in compliance with the California Environmental Quality Act, subsequent to a public hearing, and with the concurrence of the U.S. Environmental Protection Agency, grant Exceptions to the Ocean Plan if the State Board determines that (a) the Exception

will not compromise protection of ocean waters for beneficial uses, and (b) the public interest will be served.

The State Board has requested that all existing wastewater discharges to ASBS be reviewed and considered for compliance with the Ocean Plan. In response, Scripps, San Diego Region's only regulated point source discharge into an ASBS, has applied for an Exception to the Ocean Plan.

Scripps' application and additional information was reviewed and found to be complete on November 26, 2003. The data and information submitted by Scripps to be considered for the Exception is sufficient for the State Board to determine that the Exception will not compromise protection of ocean waters for beneficial uses and that the public interest will be served. State Board staff determined that the existing data does not provide evidence that the discharge is causing a reduction of marine life nor that the discharge is compromising protection of ocean waters for beneficial uses.

Based upon information provided by Scripps, the State Board is drafting a Staff Report in support of the approval of the Exception to the Ocean Plan Prohibition, *Section III.H.2*. This report may be finalized and made available prior to today's Regional Board meeting.

The State Board intends to consider adoption of the Exception to the Ocean Plan Prohibition at its June 17, 2004 meeting. If the Regional Board does not recommend the approval of the Exception, the Regional Board should direct the Executive Officer to request the State Board to postpone its consideration of the Exception.

The Regional Board has received one comment letter from the University of California, Scripps Institution of Oceanography, dated March 24, 2004 (Supporting Document No. 5). Minor changes have been made to Supporting Document No. 3 based on the comment letter, including an aquaria name change and clarifications of storm water sampling locations and effluent data.

LEGAL CONCERNS: None

SUPPORTING  
DOCUMENTS:

1. Site maps
2. Tentative Resolution No. R9-2004-0013
3. Regional Board Report for tentative Resolution  
No. R9-2004-0013, dated April 14, 2004 (revised)
4. Comments from Pete Michael, Staff Environmental Scientist
5. Written Comments from interested parties
6. San Diego Union Tribune Public Notice
7. Transmittal letter and Report on tentative Resolution, both dated  
March 12, 2004

COMPLIANCE  
RECORD:

Scripps has been in compliance with Order 99-83 for the past four years. The last violation of effluent limitations was reported in the April-June 2000 report for oil and grease. In 1999, Scripps reported a total of four other violations—suspended solids, settleable solids, oil and grease, and flow.

RECOMMENDATION:

The adoption of tentative Resolution No. R9-2004-0013 is recommended.